

**Internal Revenue Service
P.O. Box 2508, Room 7008
Cincinnati, OH 45201**

**Department of the Treasury
Exempt Organizations
Rulings and Agreements**

Release Number: **200926045**
Release Date: 6/26/09
Date: March 30, 2009

Employer Identification Number:

Contact Person - ID Number:

Contact Telephone Number:

(phone)

(fax)

UIL # 4945.04-04

Legend

X = Fund

Y = Scholarship

Z = High School

C = University

D = School District

Dear

We have considered your request for advance approval of your grant-making program under section 4945 (g)(1) of the Internal Revenue Code, dated January 23, 2009.

Our records indicate that X was recognized as exempt from Federal income tax under section 501(c)(3) of the Code and that it is classified as a private foundation as defined in section 509(a).

Your letter indicates that X will operate a grant-making program called Y.

The purpose of X is to engage in charitable activities by enhancing access to higher education.

The purpose of Y is to provide scholarships to certain academically-qualified students of Z who are in need of financial assistance and who desire to: (i) pursue a career in the health care field, (ii) attend C or (iii) continue their studies in the field of art, music, literature, science, engineering or philosophy. The number of scholarships and the amount of each scholarship varies depending upon the available funds. The scholarship is renewable.

The Scholarship Program (Y) is publicized by D in its Student Handbook. In addition, the Guidance Office of Z distributes information about Y and provides applications to interested students.

Each year the trustees of X contact the Scholarship Selection Committee as to the amount available for scholarships. The annual Selection Committee is set forth in X's organizing document and is comprised of X's Trustees, the Superintendent of D, the Principal of Z, and the Guidance Advisor for Boys and the Guidance Advisor for Girls. The Selection Committee reviews the applications, selects the scholarship recipients, determines the

number of scholarships that shall be awarded and determines the amount of each scholarship. In making its selection, the Selection Committee considers the following: scholastic achievement, financial need and educational goals. All scholarships are awarded on an objective and non-discriminatory basis. No Scholarships may be awarded to any individuals who are related by blood, adoption or marriage to any member of the Selection Committee or any disqualified person of X as first cousin or nearer relative.

The Trustees of X pay the scholarship proceeds directly to the educational institution the recipient attends or desires to attend for the benefit of the recipient. The Trustees provide a letter to each Educational Institution specifying that the Educational Institution's acceptance of the scholarship proceeds constitutes the Educational Institution's agreement to (i) refund any unearned portion of a scholarship if, subsequent to the payment of a scholarship, a scholarship recipient fails to meet any term or condition of Y; and (ii) the Trustees if a scholarship recipient fails to meet any term or condition of Y.

Sections 4945(a) and (b) of the Code impose certain excise taxes on "taxable expenditures" made by a private foundation.

Section 4945(d)(3) of the Code provides that the term "taxable expenditure" means any amount paid or incurred by a private foundation as a grant to an individual for travel, study, or other similar purposes by such individual, unless such grant satisfies the requirements of subsection (g).

Section 4945(g) of the Code provides that section 4945(d)(3) shall not apply to individual grants awarded on an objective and nondiscriminatory basis pursuant to a procedure approved in advance if it is demonstrated that:

- (1) The grant constitutes a scholarship or fellowship grant which is subject to the provisions of section 117(a) and is to be used for study at an educational organization described in section 170(b)(1)(A)(ii);
- (2) The grant constitutes a prize or award which is subject to the provisions of section 74(b), if the recipient of such prize or award is selected from the general public, or
- (3) The purpose of the grant is to achieve a specific objective, produce a report or similar product, or improve or enhance a literary, artistic, musical, scientific, teaching, or other similar capacity, skill, or talent of the grantee.

Section 53.4945-4(c)(1) of the Regulations provides that to secure approval, a private foundation must demonstrate that:

- (i) Its grant procedure includes an objective and nondiscriminatory selection process;
- (ii) Such procedure is reasonably calculated to result in performance by grantees of the activities that the grants are intended to finance; and
- (iii) The foundation plans to obtain reports to determine whether the grantees performed activities that the grants are intended to finance.

Based on the information submitted and assuming your award programs will be conducted as proposed with a view to provide objectivity and nondiscrimination in making the awards, we have determined that your procedures for granting the awards comply with the requirements contained in section 4945(g) of the Code and that awards granted in accordance with such procedures will not constitute "taxable expenditures" within the meaning of section 4945(d)(3).

In addition, we have determined that awards made under your procedures are excludable from the gross income of the recipients subject to the limitations provided by section 117 of the Code.

This determination is conditioned on the understanding that there will be no material change in the facts upon which it is based. It is further conditioned on the premise that no grants will be awarded to foundation managers, or members of the selection committee, or for a purpose that is inconsistent with the purpose described in section 170(c)(2)(B) of the Code.

The approval of your award program procedures herein constitutes a one-time approval of your system standards and procedures designed to result in awards which meet the requirements of section 4945(g)(1) of the Code. **This determination only covers the grant programs described above.** Thus, approval shall apply to subsequent award programs only as long as the standards and procedures under which they are conducted do not differ materially from those described in your request.

Any funds you distribute to individuals must be made on a true charitable basis in furtherance of the purposes for which you are organized. Therefore, you should maintain adequate records and case histories so that any or all award distributions can be substantiated upon request by the Internal Revenue Service.

This determination is directed only to the organization that requested it. Section 6110(j)(3) of the Code provides that it may not be used or cited as a precedent.

You must report any future changes in your grant making procedures. Please keep a copy of this letter in your permanent records.

We have sent a copy of this letter to your representative as indicated in your power of attorney.

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely yours,

Robert Choi
Director, Exempt Organizations
Rulings and Agreements

Enclosures
Notice 437
Sanitized copy of letter